
STATUTORY INSTRUMENTS

2004 No. 2110

**The Merchant Shipping (Vessel Traffic Monitoring
and Reporting Requirements) Regulations 2004**

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004 and shall come into force on 20th September 2004.

Interpretation

2.—(1) In these Regulations—

“the 1995 Act” means the Merchant Shipping Act 1995;

“agent” means a person mandated or authorised to supply information on behalf of the owner of a ship;

“the BC Code” means the 2001 Edition of the IMO Code of Safe Practice for Solid Bulk Cargoes;

“the Directive” means Directive [2002/59/EC](#) of the European Parliament and of the Council of 27th June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive [93/75/EEC](#)(1);

“domestic voyage” means a voyage from a port of an EEA State to the same or another port of that EEA State;

“EEA State” means a member State, Norway, Iceland or Liechtenstein;

“the IBC Code” means the 1998 edition of the IMO International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

“the IGC Code” means the 1993 edition of the IMO International Code for the Construction and Equipment of Ships Carrying Liquified Gases in Bulk;

“IMDG Code” means the 2002 edition of the IMO International Maritime Dangerous Goods Code;

“IMO” means the International Maritime Organization;

“the IMO guidelines” means the Guidelines for Vessel Traffic Services contained in IMO Resolution A.857(20) adopted on 27th November 1997;

“the ISM Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted on 4th November 1993 by the IMO by Resolution A.741(18);

(1) OJNo. L 208, 5.8.2002, p10.

“the MCA” means the Maritime and Coastguard Agency, an Executive Agency of the Department for Transport;

“the MARPOL Convention” means the International Convention for the Prevention of Pollution from Ships⁽²⁾ and the 1978 Protocol thereto⁽³⁾;

“Merchant Shipping Notice” means a Notice described as such and issued by the MCA;

“non-United Kingdom ship” means a ship which is not a United Kingdom ship;

“owner”, as regards a ship, includes any organisation or person such as the manager or the bareboat charterer who has assumed responsibility for the operation of the ship from the owner of the ship, and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISM Code;

“port authority” is a port authority within the meaning of the Directive and in relation to the United Kingdom means a statutory harbour authority within the meaning of the 1995 Act, and “authority” in relation to a port shall be construed accordingly;

“ship” means a sea-going vessel or craft;

“the SOLAS Convention” means the International Convention for the Safety of Life at Sea, 1974⁽⁴⁾ as amended in accordance with its Protocol of 1988⁽⁵⁾ and the amendments in force on the date on which these Regulations come into force;

“traditional ship” means an historical ship or a replica of an historical ship operated according to traditional principles of seamanship and technique, and for the purposes of this definition, a replica of an historical ship includes such replica designed to encourage and promote traditional skills and seamanship;

“United Kingdom waters” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom;

“VTS” means vessel traffic service;

“vessel traffic service” means a service—

- (a) which is designed to improve the safety and efficiency of vessel traffic and to protect the environment and which is capable of interacting with that traffic and responding to traffic situations developing in the VTS area; and
- (b) which, in relation to a service operated by the United Kingdom either alone or in conjunction with one or more States, is a service provided from within the United Kingdom which has been designated by the MCA in writing and is specified in a Merchant Shipping Notice.

(2) For the purposes of these Regulations—

- (a) “accident” means any accident or occurrence affecting the safety of a ship, including, without prejudice to the generality of the foregoing, any occurrence whereby a ship—
 - (i) is in collision,
 - (ii) grounds,
 - (iii) is damaged,
 - (iv) malfunctions or breaks down,
 - (v) suffers the flooding or shifting of cargo, or
 - (vi) suffers a defective hull or structural failure;

(2) Cmnd 5748.

(3) Cmnd 7347.

(4) Cmnd. 7874.

(5) Cm 4420.

- (b) “incident” means any incident which affects or could affect the safety of a ship or other ships, including, without prejudice to the generality of the foregoing, a failure or defect which affects or is likely to affect—
- (i) the manoeuvrability or seaworthiness,
 - (ii) the propulsion system,
 - (iii) the steering gear,
 - (iv) the electrical generating system,
 - (v) the navigation equipment, or
 - (vi) the communications system,
- of that ship.
- (3) For the purposes of these Regulations, “dangerous goods” means—
- (a) goods classified as dangerous in the IMDG Code;
 - (b) dangerous liquid substances listed in Chapter 17 of the IBC Code;
 - (c) liquefied gases listed in Chapter 19 of the IGC Code;
 - (d) solids referred to in Appendix B of the BC Code;
 - (e) goods in respect of whose carriage appropriate preconditions have been imposed in accordance with paragraph 1.1.3 of the IBC Code or paragraph 1.1.6 of the IGC Code.
- (4) For the purposes of these Regulations, “polluting goods” means—
- (a) any oil, oily mixture, oil fuel or crude oil, as defined in Annex I to the MARPOL Convention;
 - (b) any noxious liquid substance, as defined in Annex II to the MARPOL Convention; and
 - (c) any marine pollutant identified in the IMDG Code.
- (5) For the purposes of these Regulations—
- (a) “United Kingdom ship” means a ship which—
 - (i) is registered in the United Kingdom, or
 - (ii) is not registered under the law of any country but is wholly owned by persons each of whom is—
 - (aa) a British Citizen, a British overseas territories citizen or a British Overseas citizen, or
 - (bb) a body corporate which is established under the law of any part of the United Kingdom and has its principal place of business in the United Kingdom; and
 - (b) “British Citizen”, “British overseas territories citizen” and “British Overseas citizen” have the same meaning as in the British Nationality Act 1981(6).
- (6) Other expressions used in these Regulations (other than regulations 12(4) to 12(9)) and which are also used in the Directive shall have the same meaning as in the Directive and cognate expressions shall be construed accordingly.
- (7) Any reference in these Regulations to a particular Merchant Shipping Notice includes a reference to any such document amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time.
- (8) Any reference in these Regulations to—
- (a) the BC Code;

- (b) the IBC Code;
- (c) the IGC Code;
- (d) the IMDG Code; or
- (e) the ISM Code,

includes a reference to any document amending that publication which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice.

Competent authority

3. For the purposes of these Regulations—
 - (a) as regards the United Kingdom, the competent authority shall be the MCA;
 - (b) as regards an EEA State other than the United Kingdom, the competent authority shall be the authority designated as such by the EEA State in question in accordance with article 22 of the Directive.

Application

- 4.—(1) Subject to paragraph (2), and unless otherwise stated, these Regulations, apply to—
 - (a) all United Kingdom ships wherever they may be; and
 - (b) all non-United Kingdom ships whilst they are in United Kingdom waters.
- (2) Subject to paragraph (5), these Regulations do not apply to—
 - (a) ships of less than 300 gross tonnage, unless otherwise stated;
 - (b) warships, naval auxiliaries and other ships owned or operated by the Government of an EEA State which are used for non-commercial public service;
 - (c) fishing vessels;
 - (d) traditional ships;
 - (e) recreational craft having a length of less than 45 metres.
- (3) Subject to paragraph (5)(d), in relation to a ship, these Regulations do not apply to—
 - (a) bunkers of less than 5,000 tonnes; and
 - (b) the stores and the equipment,
 for use on board that ship.
 - (4) For the purposes of regulation 10, in relation to a ship, bunkers for use on board that ship shall not be regarded as dangerous or polluting goods.
 - (5) Regulation 12 applies to—
 - (a) fishing vessels;
 - (b) traditional ships;
 - (c) recreational craft having a length of less than 45 metres; and
 - (d) in relation to a ship, bunkers of less than 5,000 tonnes for use on board that ship.
 - (6) In this regulation, “length”, in relation to a recreational craft, means either—
 - (a) 96% of the total length of the craft on a waterline at 85% of the least moulded depth measured from the keel line; or
 - (b) the length from the foreside of the stem to the axis of the rudder stock on that waterline, whichever is the greater, and where the craft in question is designed with rake of keel, the waterline on which the lengths referred to in (a) and (b) are measured shall be parallel to the designed waterline.

PART 2

SHIP REPORTING AND MONITORING

Notification prior to entry into port

5.—(1) This regulation applies to—

- (a) a United Kingdom ship bound for a port located in an EEA State; and
- (b) a non-United Kingdom ship bound for a port located in the United Kingdom.

(2) The owner, agent or master of a ship referred to in paragraph (1) shall notify the authority of the port to which the ship in question is bound of the information specified in paragraph (3) in accordance with paragraph (4).

(3) The information referred to in paragraph (2) is—

- (a) the name, the call sign, the IMO identification number or the maritime mobile service identity number of the ship;
- (b) the port of destination;
- (c) the estimated time of arrival at the port of destination, or if required by the authority of the port in question, the pilot station for that port;
- (d) the estimated time of departure from the port of destination referred to in subparagraph (c); and
- (e) the total number of persons on board the ship.

(4) The information shall be notified—

- (a) if it is known to which port the ship is bound, at least 24 hours before the arrival of the ship;
- (b) if the duration of the voyage is less than 24 hours, no later than the time of departure from the previous port; or
- (c) if it is not known to which port the ship is bound until less than 24 hours before the arrival of the ship at the port in question, as soon as possible after it becomes known that the ship is bound for that port.

(5) Where information has been notified in accordance with paragraph (2), the master of the ship in question shall notify immediately the authorities of the port to which the ship is bound of any changes to that information.

(6) A port authority in the United Kingdom to whom information has been notified pursuant to this regulation shall, on receipt of that information, pass it to the MCA by the quickest means possible.

Vessel traffic services within territorial seas

6.—(1) The master of a United Kingdom ship shall ensure that, when the ship enters an area in respect of which a VTS is operated in accordance with the IMO guidelines by—

- (a) an EEA State within the territorial sea of that EEA State; or
- (b) co-operating States within the territorial seas of those co-operating States,

the ship shall participate in, and comply with, the rules of that VTS.

(2) The master of a non-United Kingdom ship shall ensure that, when the ship enters a relevant area in respect of which a VTS is operated in accordance with the IMO guidelines, the ship shall participate in, and comply with, the rules of that VTS.

(3) In this regulation—

- (a) “co-operating States” means two or more States of which at least one shall be an EEA State;
- (b) “nautical chart” and “nautical publication” have the same meaning as they have in regulation 2 in Chapter V of the Annex to the SOLAS Convention;
- (c) “relevant area” means an area within the territorial sea of the United Kingdom;
- (d) “rules”, in relation to a VTS, means the most recent rules which have been—
 - (i) published in a nautical chart or a nautical publication, or
 - (ii) promulgated so that masters of ships ought reasonably to be aware of them.

Vessel traffic services outside territorial seas

7.—(1) Paragraph (2) applies to—

- (a) a United Kingdom ship; and
- (b) a non-United Kingdom ship which is bound for a port in the United Kingdom.

(2) The master of a ship referred to in paragraph (1) shall ensure that, when the ship enters a VTS area outside the territorial sea of an EEA State and that VTS is operated in accordance with the IMO guidelines by—

- (a) an EEA State ; or
- (b) co-operating States,

the ship shall participate in, and comply with, the rules of that VTS.

(3) The master of a non-United Kingdom ship which is not bound for a port in the United Kingdom shall ensure that, when the ship enters a VTS area outside the territorial sea of the United Kingdom and that VTS is operated by—

- (a) the United Kingdom; or
- (b) two or more States one of which is the United Kingdom,

the ship shall follow the rules of that VTS whenever possible.

(4) If the MCA is of the opinion that a non-United Kingdom ship has failed substantially to comply with paragraph (3), the MCA shall report that failure to the flag State of the ship in question.

(5) In this regulation, “co-operating States” and “rules”, in relation to a VTS, have the same meaning as they have in regulation 6.

Installation of automatic identification systems

8.—(1) This regulation applies to—

- (a) a cargo craft;
- (b) a cargo ship, other than a cargo craft, of 300 gross tonnage or more but less than 500 gross tonnage built on or after 1st July 2002 on a domestic voyage;
- (c) a passenger ship built before 1st July 2002 on a domestic voyage;
- (d) a tanker built before 1st July 2002 on a domestic voyage which has undergone a survey for safety equipment between 1st July 2003 and the date on which these Regulations come into force;
- (e) a cargo ship, other than a cargo craft or a tanker, of 50,000 gross tonnage or more built before 1st July 2002 on a domestic voyage;
- (f) a cargo ship, other than—
 - (i) a cargo craft,

- (ii) a tanker referred to in sub-paragraph (d), or
- (iii) a cargo ship referred to in sub-paragraph (e),
built before 1st July 2002 on a domestic voyage.

(2) A ship referred to in paragraph (1), other than a ship referred to in paragraph (1)(f), shall be fitted with an automatic identification system, which complies with the relevant requirements.

(3) Subject to paragraph (4), a ship referred to in paragraph (1)(f) shall be fitted with an automatic identification system, which complies with the relevant requirements in accordance with the timetable contained in Part I of Annex II to the Directive.

(4) If a tanker built before 1st July 2002 on a domestic voyage has not undergone a survey for safety equipment since 1st July 2003, the tanker in question shall be fitted with an automatic identification system which complies with the relevant requirements no later than the next such survey.

(5) In this regulation—

- (a) “cargo craft” means a high-speed craft, other than a craft carrying more than 12 passengers, which is capable of maintaining the main functions and safety systems of unaffected spaces after damage in any one compartment on board;
- (b) “high speed craft” means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding: $3.7\#^{0.1667}$ where # = volume of displacement corresponding to the design waterline (m³), excluding craft the hull of which is supported clear above the water surface in non displacement mode by aerodynamic forces generated by ground effect; and
- (c) “the relevant requirements” means the requirements of paragraph 2.4.5 of regulation 19 in Chapter V of the Annex to the SOLAS Convention.

Operation of automatic identification systems

9. The master of a ship fitted with an automatic identification system shall ensure that the system is maintained in operation at all times except where international agreements, rules or standards provide for the protection of navigational information.

PART 3

NOTIFICATION OF DANGEROUS OR POLLUTING GOODS

Notification by ships carrying dangerous or polluting goods

10.—(1) This regulation applies to ships, regardless of their size, carrying—

- (a) dangerous goods; or
- (b) polluting goods.

(2) Subject to paragraph (8) and regulation 11(1), before a ship departs from a port in the United Kingdom, the owner, agent or master of that ship shall notify the MCA of the information specified in the Annex to the Merchant Shipping Notice 1784(M) in accordance with that Notice.

(3) Subject to regulation 11(5), before a United Kingdom ship departs from a port located in an EEA State, other than a port in the United Kingdom, the owner, agent or master of that United Kingdom ship shall notify the competent authority of the State in which that port is situated of the information specified in the Annex to the Merchant Shipping Notice 1784(M) in accordance with that Notice.

(4) Subject to regulation 11(5), where a United Kingdom ship—

- (a) is coming from a port which is not located in an EEA State; and
- (b) is bound for—
 - (i) a port located in, or
 - (ii) an anchorage located in the territorial waters of, an EEA State other than the United Kingdom,

the owner, master or agent of that ship shall notify the competent authority of the EEA State in question of the information specified in the Annex to the Merchant Shipping Notice 1784(M) in accordance with that Notice by the time specified in paragraph (6).

- (5) Subject to paragraph (8) and regulation 11(5), where a ship—
 - (a) is coming from a port which is not located in an EEA State; and
 - (b) is bound for a port in the United Kingdom or an anchorage located in United Kingdom waters,

the owner, master or agent of that ship shall notify the MCA of the information specified in the Annex to the Merchant Shipping Notice 1784(M) in accordance with that Notice by the time specified in paragraph (6).

- (6) The time referred to in paragraphs (4) and (5) is—
 - (a) where—
 - (i) the port of destination, or
 - (ii) the location of the anchorage,is known at the time of departure from the port at which the dangerous goods or the polluting goods, as the case may be, were loaded, no later than the time of departure from that port; or
 - (b) where—
 - (i) the port of destination, or
 - (ii) the location of the anchorage,is not known at the time of departure from the port at which the dangerous goods or the polluting goods, as the case may be, were loaded, the time immediately such port or such location is known.

(7) Whenever practicable, the information referred to in paragraphs (2) and (5) shall be notified to the MCA by electronic means using the procedures specified in Merchant Shipping Notice 1784(M).

- (8) When required to do so by the MCA, the owner, agent or master of a ship shall notify—
 - (a) the authority of the port of departure in question of the information referred to in paragraph (2);
 - (b) the authority of the port of destination in question of the information referred to in paragraph (5).

(9) When a port authority receives information pursuant to paragraph (8), that port authority shall—

- (a) retain that information for as long as the information may be required for use in the event of an incident or accident at sea; and
- (b) provide that information at any time by electronic means to the MCA immediately upon request.

(10) Where information has been notified in accordance with this regulation, the master of the ship in question shall notify immediately the person to whom that information was notified of any changes to that information.

Exemptions from the requirements of regulation 10

11.—(1) Subject to the conditions specified in paragraph (2), the Secretary of State may grant an exemption in respect of a scheduled service between ports within the United Kingdom so that regulation 10(2) shall not apply to the owner, agent or master of a ship engaged on that scheduled service.

(2) The conditions referred to in paragraph (1) are that the person who operates the scheduled service shall—

- (a) maintain, and keep up to date, a list of the ships engaged on that scheduled service;
- (b) send that list, and details of all updates, to the MCA;
- (c) ensure that, in respect of each voyage made by a ship whilst engaged on the scheduled service, the information specified in the Annex to the Merchant Shipping Notice 1784(M) is kept so that it can be provided at any time by electronic means to the MCA immediately upon request.

(3) The Secretary of State shall immediately revoke an exemption granted under paragraph (1) if he is satisfied that any condition contained in paragraph (2) is not complied with.

(4) An exemption granted under paragraph (1), and any revocation thereof, shall be in writing.

(5) Regulation 10(3), (4) and (5) shall not apply to the owner, agent or master of a ship engaged on an international scheduled service in respect of which there is in force an exemption granted pursuant to article 15.2 of the Directive.

PART 4

INCIDENTS AND ACCIDENTS AT SEA

Reporting of incidents and accidents at sea

12.—(1) When a ship is involved in—

- (a) an accident;
- (b) an incident; or
- (c) a pollution event likely to result in the pollution of United Kingdom waters or the coastline of the United Kingdom,

in controlled waters, the master of that ship shall immediately send to Her Majesty's Coastguard responsible for the area in which it occurred by the quickest means possible a report containing the information specified in paragraph (3).

(2) If a slick of polluting goods or containers or packages drifting at sea are seen from a ship in controlled waters, the master of that ship shall immediately send to Her Majesty's Coastguard responsible for the area in which the sighting occurred by the quickest means possible—

- (a) details of the sighting;
- (b) the information specified in paragraph (3)(a) and (b); and
- (c) any other relevant information referred to in IMO Resolution A.851(20) adopted by the Assembly of the IMO on 27th November 1997.

(3) The information referred to in paragraph (1) shall comprise—

- (a) the identity of the ship;
- (b) the position of the ship;
- (c) the last port from which the ship departed;

- (d) the next port of call;
 - (e) the number of people aboard the ship;
 - (f) the date on which, and the time at which, the accident, the incident or the polluting event, as the case may be, occurred;
 - (g) details of the accident, the incident or the polluting event, as the case may be;
 - (h) the name of the body or person from whom information regarding any dangerous goods or polluting goods on board the ship may be obtained together with the necessary information to enable that person or body, as the case may be, to be contacted.
- (4) The master shall also ensure that a report referred to in paragraph (1) shall comply as to form and content with the standard reporting requirements.
- (5) When a United Kingdom ship is involved in—
- (a) an accident;
 - (b) an incident; or
 - (c) a pollution event,
- outside controlled waters, the master of that ship shall report without delay the particulars of the accident, incident or pollution event, as the case may be, to the fullest extent possible together with the information specified in paragraph (9) in accordance with paragraph (6).
- (6) A report referred to in paragraph (5)—
- (a) shall be sent,
 - (i) where the accident, incident or pollution event, as the case may be, is a threat to the coastline, or a related interest of the United Kingdom, to Her Majesty's Coastguard responsible for the area in which it occurred,
 - (ii) where the accident, incident or pollution event, as the case may be, is a threat to the coastline, or to a related interest, of another State, to the State in question; and
 - (b) as to form and content, shall comply with the standard reporting requirements.
- (7) When a ship is involved in a discharge, or a probable discharge, of dangerous packaged goods, the master of that ship shall report without delay the particulars of the discharge or probable discharge to the fullest extent possible together with the information specified in paragraph (9) in accordance with paragraph (8).
- (8) A report referred to in paragraph (7)—
- (a) shall be sent—
 - (i) where the discharge is a threat to the coastline, or to a related interest, of the United Kingdom, to Her Majesty's Coastguard responsible for the area in which it occurred;
 - (ii) where the discharge is a threat to the coastline, or to a related interest, of another State, to the State in question; and
 - (b) shall as to form and content comply with the standard reporting requirements.
- (9) The information referred to in paragraphs (5) and (7) shall comprise—
- (a) the identity of the ship;
 - (b) the time and location of the incident;
 - (c) the quantity and type of dangerous goods involved; and
 - (d) details of assistance and salvage measures.
- (10) In this regulation—

- (a) “controlled waters” means the areas of sea specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996⁽⁷⁾ as areas within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part XII of the United Nations Convention on the Law of the Sea⁽⁸⁾ for the protection and preservation of the marine environment;
- (b) “dangerous packaged goods” means dangerous goods in packaged form including those in freight containers, portable tanks, road and rail vehicles and shipborne barges;
- (c) “pollution event” means a discharge, or the threat of a discharge, of polluting goods into the sea; and
- (d) “the standard reporting requirements” means the requirements stated in—
 - (i) part 2 (Standard Reporting Format and Procedures), or
 - (ii) sections 3.1, 3.2 and 3.3 of part 3 (Guidelines for Detailed Reporting Requirements), of the Appendix to the Annex to Resolution A.851(20) adopted by the Assembly of the IMO on 27th November 1997.

Measures to be taken in the event of exceptionally bad weather or sea conditions

13.—(1) This regulation applies whenever, in the event of exceptionally bad weather or sea conditions, the MCA are of the opinion, based on information provided to them by the Meteorological Office, that there is—

- (a) a serious threat of pollution in United Kingdom waters or the territorial sea of any other EEA State; or
- (b) a risk to human life.

(2) Whenever possible, the MCA shall provide to the master of every ship which intends to enter or leave a port in a relevant area full details of—

- (a) the weather conditions and the sea state ; and
- (b) the danger such weather conditions and sea state may cause to—
 - (i) the ship, or
 - (ii) any people or cargo on board the ship.

(3) Without prejudice to any measures which may be taken to give assistance to ships in distress, the MCA may give a recommendation described in paragraph (4) to the master of a ship in, or about to enter, a relevant area.

(4) The recommendation referred to in paragraph (3) is a recommendation that the ship—

- (a) should enter or leave a port in a relevant area;
- (b) should not enter or leave a port in a relevant area;
- (c) should not be bunkered;
- (d) should only be bunkered subject to certain conditions,

until the MCA are of the opinion that there is no longer a serious threat of pollution or a risk to human life as described in paragraph (1).

(5) If the MCA are of the opinion that a ship in a relevant area—

- (a) should not be bunkered; or
- (b) should only be bunkered subject to certain conditions,

(7) S.I.1996/2128, as amended by S.I. 1997/506.

(8) Cmnd. 8941.

the MCA shall inform the master of the ship of that opinion.

(6) If the master of a ship is informed of an opinion pursuant to paragraph (5), the master shall ensure that the ship is not bunkered or that the conditions subject to which the ship should be bunkered are complied with, as the case may be.

(7) A recommendation or an opinion given pursuant to this regulation—

- (a) shall be given to the master of the ship in question by the quickest means available; and
- (b) if not given in writing, shall be confirmed in writing as soon as is practicably possible.

(8) Where the MCA give a recommendation or an opinion pursuant to this regulation, the master of the ship in question shall inform the owner of that ship as soon as is practicably possible and by the quickest means available of the recommendation or the opinion.

(9) If, as a result of the exercise of his professional judgement, the master decides not to act in accordance with a recommendation given pursuant to this regulation, the master shall inform the MCA of the reasons for his decision.

(10) In this regulation—

- (a) “relevant area” means an area in United Kingdom waters in respect of which exceptionally bad weather or sea conditions are forecast;
- (b) “professional judgement” means professional judgement as regards matters relating to safe navigation or the protection of the marine environment.

Measures to be taken in the event of incidents or accidents at sea

14.—(1) This regulation applies to the master of —

- (a) a cargo ship of not less than 300 gross tonnage and not more than 500 gross tonnage on an international voyage;
- (b) a cargo ship on a domestic voyage;
- (c) a passenger ship other than—
 - (i) a passenger ship of class I, II or II(A), or
 - (ii) a ro-ro ferry.

(2) A master to whom this regulation applies shall inform the owner of the ship in question by the quickest means available of any accident or incident at sea in which the ship is involved or which affects the ship as soon as possible after the accident or incident occurs.

(3) In this regulation—

- (a) “international voyage” means a voyage from a country to which the SOLAS Convention applies to a port outside that country, or conversely;
- (b) “passenger ship of class I, II or II(A)” means a passenger ship so classified within the meaning of the Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1998(9); and
- (c) “ro-ro ferry” means a seagoing passenger vessel with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers.

Obligations of shipowners in relation to accidents and incidents

15.—(1) When the owner of a ship is informed by the master of that ship of an accident or incident at sea either in accordance with the ISM Code or in accordance with regulation 14 that owner—

- (a) shall inform the relevant authority immediately of the accident or incident; and

(9) 1998/2514, amended by S.I. 2000/2687; there are other amending instruments but none is relevant.

- (b) shall give such assistance as may be reasonably required by the relevant authority.
- (2) In this regulation—
 - (a) “coastal authority” means—
 - (i) a person or body who provides a VTS,
 - (ii) a person or body who is responsible for a mandatory reporting system approved by the IMO, or
 - (iii) a person or body who is responsible for the co-ordination of search and rescue operations at sea or the co-ordination of operations to deal with pollution at sea; and
 - (b) “the relevant authority” means—
 - (i) Her Majesty’s Coastguard, where the accident or incident occurs in United Kingdom waters, or
 - (ii) the coastal authority of the EEA State, other than the United Kingdom, in whose territorial waters the accident or incident occurred.

PART 5

MISCELLANEOUS PROVISIONS

Confidentiality of information

16.—(1) Subject to paragraph (4), no authority or member of staff of an authority shall disclose any information which has been obtained by, or furnished to, that authority or member of staff, as the case may be, under or for the purposes of the Directive and these Regulations unless the disclosure is made with lawful justification.

(2) For the purposes of paragraph (1), a disclosure of information is made with lawful justification only if, and to the extent that—

- (a) the disclosure is made for the purposes of, and is necessary for, the performance of any obligation under the Directive and these Regulations;
- (b) the disclosure is made with the consent of the person to whom, or to whose business, property or other assets, the information relates;
- (c) the disclosure is made for the purposes of any proceedings, whether criminal or civil;
- (d) having regard to the rights and freedoms or legitimate interests of any person, the disclosure is necessary in the public interest.

(3) In this regulation, “authority” means the MCA, Her Majesty’s Coastguard or a United Kingdom port authority.

(4) Paragraph (1) shall not apply in the case of information contained in an historical record.

(5) Where records created at different dates are for administrative purposes kept together in one file or other assembly, all the records in that file or other assembly are to be treated for the purposes of this regulation as having been created when the latest of those records was created.

(6) For the purposes of this regulation—

- (a) a record becomes an “historical record” at the end of the period of thirty years beginning with the year following that in which it was created; and
- (b) “year” means a calendar year.

Offences

17.—(1) Any contravention of regulation 5(2), 10(2), 10(3), 10(4), 10(5) or 10(8) shall be an offence by the owner, agent and master of the ship in question punishable—

- (a) on summary conviction by a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment by a fine.

(2) Any person who, in purported compliance with regulation 5(2), 10(2), 10(3), 10(4), 10(5) or 10(8) makes a notification which he knows to be false in any material particular, shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

(3) If the master of a ship fails to comply with regulation 5(5), 6(1), 6(2), 7(2), 10(10), 12(1), 12(2), 12(4), 12(5), 12(7), 13(6), 13(8), 13(9) or 14(2), that master shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

(4) If a ship does not comply with regulation 8(2), 8(3) or 8(4), the owner of that ship shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

(5) If the master of a ship fails to comply with regulation 9, that master shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

(6) If a port authority fails to comply with regulation 5(6) or 10(9) that port authority shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

(7) If the owner of a ship fails to comply with regulation 15(1), that owner shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

(8) Any person who knowingly or recklessly discloses information in contravention of regulation 16(1) shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

Defences

18. In any proceedings for an offence under these Regulations, other than an offence under regulation 17(2) or 17(8), it shall be a defence for a person charged under these Regulations to prove that he took all reasonable steps to avoid the commission of the offence.

Offences due to the fault of another person

19. Where an offence under these Regulations is committed, or would have been committed but for the operation of regulation 18, by any person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

Offences by corporate bodies

20.—(1) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) a person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under these Regulations committed by a Scottish partnership is proved—

- (a) to have been committed with the consent or connivance of; or
- (b) to be attributable to any neglect on the part of,

a partner, he as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Detention of ships

21. In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and section 284 of the 1995 Act⁽¹⁰⁾ (enforcing detention of ship) shall have effect in relation to the ship as if for the words “this Act”, wherever they appear in that section, there were substituted the words “the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004”.

Amendments

22.—(1) In Schedule 3A to the 1995 Act⁽¹¹⁾, after sub-paragraph (d) of paragraph 1(2), there shall be inserted “(da) the owner of a hazardous substance in the ship,”.

(2) The Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995⁽¹²⁾ shall be amended in accordance with the provisions of Schedule 1.

(3) In the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996⁽¹³⁾, at the end of regulation 33(2)(i), there shall be added the words “and the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004”.

⁽¹⁰⁾ Section 284 was amended by section 9 of, and paragraph 5 of Schedule 1 to, the Merchant Shipping and Maritime Security Act 1997 (c. 28).

⁽¹¹⁾ Schedule 3A was inserted by Schedule 1 to the Marine Safety Act 2003 c. 16.

⁽¹²⁾ S.I. 1995/2498, amended by S.I. 1999/2121 and S.I. 2001/1638.

⁽¹³⁾ S.I. 1996/2154; relevant amending instrument is S.I. 2004/303.

(4) The Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997(14) shall be amended in accordance with the provisions of Schedule 2.

(5) The Merchant Shipping (Safety of Navigation) Regulations 2002(15) shall be amended in accordance with the provisions of Schedule 3.

Signed by authority of the Secretary of State for Transport

10th August 2004

David Jamieson
Parliamentary Under Secretary of State,
Department for Transport

(14) S.I. [1997/2367](#), to which there are no amendments relevant to these Regulations.

(15) S.I. [2002/1473](#); relevant amending instrument is S.I. [2004/302](#).